

## CHAPTER 1080

### EMPLOYMENT REGULATION — CRIMINAL HISTORY CHECKS — UNEMPLOYMENT INSURANCE

H.F. 2321

**AN ACT** relating to the duties of the department of workforce development regarding criminal history checks and certain state unemployment insurance law matters and including effective date provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I CRIMINAL HISTORY CHECKS

##### Section 1. **NEW SECTION. 84A.12 Criminal history checks.**

A current or prospective contractor, vendor, employee, or any other individual performing work for the department of workforce development who will have access to federal tax information shall be subject to a national criminal history check through the federal bureau of investigation at least once every ten years if such a check is required pursuant to guidance from the federal internal revenue service. The department of workforce development shall request the national criminal history check and shall provide the individual's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The individual shall authorize release of the results of the national criminal history check to the department of workforce development. The department of workforce development shall pay the actual cost of the fingerprinting and national criminal history check, if any. The results of a criminal history check conducted pursuant to [this section](#) shall not be considered a public record under [chapter 22](#).

#### DIVISION II UNEMPLOYMENT INSURANCE

Sec. 2. [Section 96.5, subsection 5](#), paragraph a, subparagraph (3), Code 2018, is amended to read as follows:

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, ~~if an individual's benefits are reduced due to the receipt of a payment under this subparagraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made shall only be applicable if the~~ base period employer has made one hundred percent of the contributions to the plan.

Sec. 3. [Section 96.5, subsection 7](#), paragraphs b, c, and d, Code 2018, are amended to read as follows:

b. When, in connection with a separation or layoff of an individual, the individual's employer makes a payment or payments to the individual, or becomes obligated to make a payment to the individual as, or in the nature of, vacation pay, or vacation pay allowance, or as pay in lieu of vacation, ~~and within ten calendar days after notification of the filing of the individual's claim, designates by notice in writing to the department the period to which the payment shall be allocated; provided, that if such designated period is extended by the employer, the individual may again similarly designate an extended period, by giving notice in writing to the department not later than the beginning of the extension of the period, with the same effect as if the period of extension were included in the original designation.~~ The amount of a payment or obligation to make payment, is deemed "wages" as defined in [section 96.19, subsection 41](#), and shall be applied as provided in paragraph "c" of [this subsection 7](#).

c. Of the wages described in paragraph “a” ~~(whether or not the employer has designated the period therein described)~~, or of the wages described in paragraph “b”, if the period therein described has been designated by the employer as therein provided, a sum equal to the wages of such individual for a normal workday shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent workday in such period until such amount so paid or owing is exhausted, ~~not to exceed five workdays~~. Any individual receiving or entitled to receive wages as provided herein shall be ineligible for benefits for any week in which the sums, ~~so designated or attributed to such normal workdays~~, equal or exceed the individual’s weekly benefit amount. If the amount ~~so designated or attributed as wages~~ is less than the weekly benefit amount of such individual, the individual’s benefits shall be reduced by such amount.

d. Notwithstanding contrary provisions in paragraphs “a”, “b”, and “c”, if an individual is separated from employment and is scheduled to receive vacation payments during the period of unemployment attributable to the employer ~~and if the employer does not designate the vacation period pursuant to paragraph “b”~~, then payments made by the employer to the individual or an obligation to make a payment by the employer to the individual for vacation pay, vacation pay allowance or pay in lieu of vacation shall not be deemed wages as defined in [section 96.19, subsection 41](#), for any period in excess of ~~one week~~ five workdays and such payments or the value of such obligations shall not be deducted for any period in excess of one week from the unemployment benefits the individual is otherwise entitled to receive under [this chapter](#). However, if the employer designates more than one week as the vacation period pursuant to paragraph “b”, the vacation pay, vacation pay allowance, or pay in lieu of vacation shall be considered wages and shall be deducted from benefits.

Sec. 4. [Section 96.6, subsection 3](#), paragraph a, Code 2018, is amended to read as follows:

a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of [chapter 17A](#) relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. ~~A The notice for a telephone or in-person hearing shall not be scheduled before the seventh sent to all the parties at least ten calendar day after the parties receive notice of days before the hearing date.~~ Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge’s decision, together with the administrative law judge’s reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to [this section](#).

Sec. 5. [Section 96.7, subsection 8](#), Code 2018, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. (1) In the discretion of the department, a nonprofit organization employing fifteen or more full-time individuals that elects to become liable for payments in lieu of contributions shall be required, within fifteen days after the effective date of its election, to execute and file with the department a bond or security approved by the department. The amount of the bond or security shall be determined by rule pursuant to [chapter 17A](#).

(2) A bond or security deposited under [this subsection](#) shall be in force for a period of not less than two calendar years and shall be renewed with the approval of the department, at such times as the department may require, but not less frequently than at two-year intervals as long as the organization continues to be liable for payments in lieu of contributions. The department shall require adjustments to be made in a previously filed bond or security as it deems appropriate. If the bond or security is to be increased, the adjusted bond or security shall be filed by the organization within fifteen days after the date notice of the required adjustment was provided. Failure by an organization covered by such bond or security to pay the full amount of payments in lieu of contributions when due, together with any applicable

interest and penalties, shall render the surety liable on said bond or security to the extent of the bond or security, as though the surety were such an organization.

(3) If a nonprofit organization fails to file a bond or security or to file a bond or security in an increased amount as required under this paragraph “c”, the department may terminate the organization’s election to make payments in lieu of contributions, and the termination shall continue for a period of not less than four consecutive calendar quarters beginning with the quarter in which the termination becomes effective, but the department may, for good cause, extend the applicable filing or adjustment period by not more than fifteen days.

NEW PARAGRAPH. *d.* If a nonprofit organization is delinquent in making payments in lieu of contributions as required under [this subsection](#), the department may terminate the organization’s election to make payments in lieu of contributions as of the beginning of the next calendar year.

Sec. 6. [Section 96.16, subsection 4](#), paragraph a, Code 2018, is amended to read as follows:

*a.* An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under [this chapter](#) while any conditions for the receipt of benefits imposed by [this chapter](#) were not fulfilled in the individual’s case, or while the individual was disqualified from receiving benefits, shall, ~~in the discretion of the department, either be liable to have the sum deducted from any future benefits payable to the individual under [this chapter](#) or shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual.~~ If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual’s property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in [section 96.14, subsection 3](#).

Sec. 7. [Section 96.19, subsection 16](#), paragraph a, Code 2018, is amended to read as follows:

*a.* For purposes of [this chapter](#) with respect to any calendar year after December 31, 1971-2018, any employing unit which in any calendar quarter in either the current or preceding calendar year paid wages for service in employment ~~wages of one thousand five hundred dollars or more excluding wages paid for domestic service or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment at least one individual irrespective of whether the same individual was in employment in each such day.~~ An employing unit treated as a domestic service employer shall not be treated as an employer with respect to wages paid for service other than domestic service unless such employing unit is treated as an employer under this paragraph or as an agricultural labor employer.

Sec. 8. EFFECTIVE DATE. The following takes effect January 1, 2019:  
The section of this division of this Act amending section 96.19.

Approved April 4, 2018